

ORIGINAL

AO 440 (Rev. 8/01) Summons in a Civil Action

JUDGE HOLWELL

UNITED STATES DISTRICT COURT

Southern

District of

New York

E*TRADE Financial Corporation and
E*TRADE Securities LLC

SUMMONS IN A CIVIL ACTION

V.

Marcus J. Hernandez, Sean J. Gaffey and
Banc of America Investment Services, Inc.

CASE NUMBER:

08 CV 2993

TO: (Name and address of Defendant)

Sean J. Gaffey
550 Gregory Avenue
Apt. B7
Weehawken, NJ 07086-6001

YOU ARE HEREBY SUMMONED and required to serve on PLAINTIFF'S ATTORNEY (name and address)

Douglas P. Lobel
Cooley Godward Kronish LLP
Reston Town Center
One Freedom Square
11951 Freedom Drive
Reston, VA 20190

Laura Grossfield Birger
Cooley Godward Kronish LLP
1114 Avenue of the Americas
New York, New York 10036

an answer to the complaint which is served on you with this summons, within 20 days after service of this summons on you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint. Any answer that you serve on the parties to this action must be filed with the Clerk of this Court within a reasonable period of time after service.

MAR 24 2008

J. MICHAEL McMAHON

CLERK

DATE

(By) DEPUTY CLERK

AO 440 (Rev. 8/01) Summons in a Civil Action

RETURN OF SERVICE

Service of the Summons and complaint was made by me ⁽¹⁾	DATE
NAME OF SERVER (<i>PRINT</i>)	TITLE

Check one box below to indicate appropriate method of service

- ☐ Served personally upon the defendant. Place where served:
- ☐ Left copies thereof at the defendant's dwelling house or usual place of abode with a person of suitable age and discretion then residing therein.
Name of person with whom the summons and complaint were left:
- ☐ Returned unexecuted:
- ☐ Other (specify):

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL \$0.00
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DECLARATION OF SERVER

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on _____
Date Signature of Server

Address of Server

(1) As to who may serve a summons see Rule 4 of the Federal Rules of Civil Procedure.

E*TRADE FINANCIAL CORPORATION and E*TRADE
SECURITIES LLC,

Plaintiffs,

-against-

MARCUS J. HERNANDEZ, SEAN J. GAFFEY and BANC OF
AMERICA INVESTMENT SERVICES, INC.,

Defendants.

Index No.: 2008 CV 2993 (Holwell)

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)

) ss.:)

COUNTY OF NEW YORK)

JUAN ROLDAN, being duly sworn, deposes and says:

1. That I am not a party to this action, am over eighteen years of age and reside in the State of New Jersey;

2. That on March 25, 2008, at approximately 7:18 a.m., I served by hand, by personally delivering to and

leaving with, a true and correct copy of the foregoing documents: **SUMMONS IN A CIVIL ACTION, COMPLAINT FOR PRELIMINARY INJUNCTION RELIEF IN AID OF ARBITRATION, CORPORATE DISCLOSURE STATEMENT PURSUANT TO FEDERAL RULE OF CIVIL PROCEDURE 7.1, CIVIL COVER SHEET, Individual Practices of Judge Richard J. Holwell and Individual Practices Of Magistrate Judge Theodore H. Katz**, all upon **SEAN J. GAFFEY** (an **Individual**), by Substituted Service, via Mr. Eric T. Black, who identified himself as a "Friend" and who accepted service on behalf of Sean J. Gaffey, Individually and who also indicated that he was house sitting for Sean J. Gaffey who was away. Mr. Eric T. Black, who is known and known to be, someone of suitable age and discretion, who indicated upon inquiry that he nor Sean J. Gaffey are neither in Military Service nor dependant upon anyone within Military Service, which service was effected at Sean J. Gaffey's actual place of residence indicated below:

SEAN J. GAFFEY
550 Gregory Avenue / Apartment B7 / 4th Floor
Weehawken, New Jersey 07086

3. **Mr. Eric T. Black** can best be described as:

Male - White skin - Brown hair - Approximately 26 - 36 years of age, 5'6" - 5'10" and 155 - 195 lbs.

4. On March 27, 2008, I deposited in a United States Post Office within New York State, via Regular First Class Mail, another true copy of the abovementioned documents, properly enclosed and sealed in a post-paid envelope bearing the legend 'Personal and Confidential'. The envelope did not indicate on the outside thereof, by return address or otherwise, that the communication is from an attorney or concerns an action commenced against the person served, and was addressed to SEAN J. GAFFEY at the address noted above.

Dated: March 27, 2008
New York, New York

JUAN ROLDAN
License No. 0983113

Sworn to before me on this the 27th day of March 2008.

HOLLY ROLDAN
Notary Public, State of New York
No. 01R06125752
Qualified in New York County
Commission Expires April 20, 2009

Holly Roldan
NOTARY PUBLIC

RAPID & RELIABLE ATTORNEY SERVICE, INC.
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